

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to licensure to sell and safety standards for consumer fireworks

The State Fire Marshal hereby adopts new Chapter 265, “Consumer Fireworks Sales Licensing and Safety Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 100.19 and 100.19A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 100.19 and 100.19A.

Purpose and Summary

2017 Iowa Acts, Senate File 489, relating to the purchase, use, and regulation of consumer and display fireworks, was enacted in 2017 by the Iowa General Assembly during its regular session. The legislation, which is now codified in the Iowa Code, requires the State Fire Marshal to promulgate administrative rules for the regulation of the storage, transportation, handling, and use of consumer fireworks; for the sale of consumer fireworks; and for the licensing of consumer fireworks retailers and registration of wholesalers of consumer fireworks. The legislation also authorizes the licensing fees that are collected to be used to pay for the costs of administration and enforcement of the legislation and establishes a Local Fire Protection and Emergency Medical Service Providers Grant Program to provide fireworks safety education and to purchase equipment related to the sale and use of consumer fireworks.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 21, 2017, as **ARC 3123C**. This rule making was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 3124C** on the same date and became effective on May 31, 2017.

A public hearing was held on September 8, 2017. Written and oral comments were received from stakeholders and members of the public prior to or at the public hearing. Additionally, stakeholders were invited to submit comments after the final rules were drafted, and an informal stakeholder meeting was held on December 15, 2017, to receive comments on the final draft of the rules. Changes in response to comments and suggestions received were incorporated into these Adopted and Filed rules.

The stakeholder groups generally were composed of industry representatives and nonindustry representatives. Both industry and nonindustry representatives offered comments concerning the initial fireworks sales period and also offered constructive comments for the purpose of improving the rules and implementing the safety standards of NFPA 1124. There were other comments received from members of the public who were opposed to the policy of legalizing fireworks.

The changes that were made from the emergency rules to these Adopted and Filed rules primarily involve the licensing process, which contained steps needed to implement the rules in a short period of time, and the inspections, for the same reason. Some rules were also reordered and renumbered, and citations have been updated.

Comments from nonindustry members included broad-based opposition to fireworks, along with specific comments about the regulatory system set out in the new legislation. Specific comments from nonindustry members included:

- Question regarding the efficacy of a revocation process that does not provide for immediate action if the licensee is in violation of the rules.
- Suggestion that licenses should be issued for a single sales period rather than for a year (which could cover two or more seasons).
- Question regarding a possible conflict between the NFPA standards regarding fireworks and the current state or local fire code provisions.
- Question regarding the appropriate action to be taken when an inspection of a fireworks sale site shows that the site does not match the site plan submitted and approved.
- Question regarding storage facilities, which require no separate licensing, and the impact on public safety in the jurisdictions where storage facilities are located.
- Question regarding verification of sites that sell exempt amounts, which are not subject to inspection, and particularly whether it is possible to identify compliance with the regulatory exemption for exempt-amount sales.
- Statement that local authorities are best suited to address public safety concerns at a local level.
- Question regarding local jurisdictional authority regarding related regulations and statutes, including local ordinances related to hazardous materials, noise and zoning.
- Statement that local authorities should be notified regarding licensee locations, for their awareness.
- Statement that the rules that require training of personnel who are staffing the sales location should be enforced, in order to ensure compliance.
- Comment regarding the time required to conduct inspections of every site, and the cost associated with that time, and the need for adequate compensation for that time, either through state-funded inspectors or through reimbursements to local agencies conducting inspections.

Comments from industry members included:

- Comment regarding the apparent inequity experienced by in-state permanent-site license holders, who pay a higher fee, and out-of-state retailers at temporary sites, which require a lower fee.
- Comment regarding the value of a statewide system for licensing and inspections, which can provide consistency for multiple-site sellers, and especially for temporary-site licensees.
- Comment related to pending litigation regarding local ordinances and local fees charged in addition to the state licensing requirements.
- Comment that the statute creates a state licensing and regulatory program, which does not allow for additional local regulation or control over the retail sales of consumer fireworks.
- Comment that inspections should be focused on compliance on site, and other licensing processes could be streamlined so long as compliance inspections occur.
- Comment regarding the limitation of local authorities to charge fees for compliance inspections and the limitation on local authorities' ability to use zoning codes or other local ordinances to interfere with otherwise lawful consumer fireworks activities.

The State Fire Marshal reviewed and considered the comments received at the public hearing in adopting these rules as well as the other comments received informally. Based on the input from many stakeholders, these rules were drafted to closely follow the legislation and to closely follow the rule-making authority granted in the legislation. The statutory parameters are workable, and the State Fire Marshal's office has worked closely with all stakeholders to identify ways to implement the statutory requirements through administrative rules that can be applied in practical ways to comply with the statute and accommodate the needs of the private sector and local governments. Along with the experience gained during the first licensing period, input from stakeholders was helpful in drafting the final rules.

Adoption of Rule Making

This rule making was adopted by the State Fire Marshal on December 27, 2017.

Fiscal Impact

The fiscal impact for the program is expected to be between \$100,000 and \$500,000; although at present, it is anticipated that annual costs to administer the program will be around \$100,000. Annual costs include the costs of administering the licensing program, the costs associated with inspections and the enforcement of laws and regulations by the State Fire Marshal's office. Revenues from fees that are not retained for program costs will be distributed to local fire and emergency response entities through the grant program authorized by statute. Based on the number of licenses issued during the first two seasons, it appears that the fireworks program will be self-sustaining and that a grant program can be established that can benefit local communities in Iowa.

Jobs Impact

It is expected that there will be a positive impact on jobs and the economy, as there will be new opportunities for persons to be employed in the sale of fireworks. There will be a positive impact on the state economy from these new jobs and new business opportunities resulting from the sale of consumer fireworks, and from the sales tax revenue paid to the state from the sale of consumer fireworks.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the State Fire Marshal does not have authority to waive requirements established by statute.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making action is adopted:

Adopt the following new 661—Chapter 265:

CHAPTER 265

CONSUMER FIREWORKS SALES LICENSING AND SAFETY STANDARDS

DIVISION I SAFETY STANDARDS

661—265.1(100) Sale of consumer fireworks—safety standards. Any retailer or community group offering for sale at retail any first-class or second-class consumer fireworks, as described in American Pyrotechnics Association (APA) Standard 87-1, as published in December 2001, shall do so in accordance with the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition (hereinafter referred to as “APA 87-1” and “NFPA 1124,” respectively).

661—265.2 to 265.9 Reserved.

DIVISION II
CONSUMER FIREWORKS SALES—RESTRICTIONS

661—265.10(100) Sales allowed. A retailer or community group that is issued a license pursuant to this chapter is authorized to sell consumer fireworks as defined in this chapter. However, sales are permitted only as follows.

265.10(1) *Prohibited sale or transfer to persons under 18 years of age.*

a. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under 18 years of age.

b. A person, firm, partnership or corporation shall not sell consumer fireworks to a person who is less than 18 years of age.

265.10(2) *Exceptions for persons under 18 years of age.*

a. A retailer selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall supervise any employees who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks in the course of their employment for the retailer.

b. A community group selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall ensure that any persons who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks by the community group, whether the persons less than 18 years of age are paid or unpaid, shall do so under the direct supervision of an adult member of the community group.

265.10(3) *Safety requirements—storage and retail sales.* A retailer or community group selling consumer fireworks as described in APA 87-1, chapter 3, shall do so in accordance with NFPA 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

265.10(4) *Dates of sale.*

a. Permanent building. A retailer or community group may sell consumer fireworks as described in APA 87-1, chapter 3, at a permanent building only between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

b. Temporary structure. A retailer or community group may sell consumer fireworks as described in APA 87-1, chapter 3, at a temporary structure between June 13 and July 8 each year, both dates inclusive.

661—265.11 to 265.19 Reserved.

DIVISION III
CONSUMER FIREWORKS RETAILER LICENSING

661—265.20(100) Definitions. The following definitions apply to Division III.

“*APA 87-1*” means the American Pyrotechnics Association Standard 87-1, as published in December 2001.

“*Community group*” means a nonprofit entity that is open for membership to the general public and is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code or a fraternal benefit society, as that term is defined in Iowa Code section 512B.3.

“*First-class consumer fireworks*” means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Aerial shell kits and reloadable tubes.
2. Chasers.
3. Helicopter and aerial spinners.
4. Firecrackers.
5. Mine and shell devices.
6. Missile-type rockets.
7. Roman candles.
8. Sky rockets and bottle rockets.

9. Multiple tube devices as described in this definition of first-class consumer fireworks that are manufactured in accordance with APA 87-1, section 3.5.

“*NFPA 1124*” means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

“*Retailer*” means the same as defined in Iowa Code section 423.1.

“*Second-class consumer fireworks*” means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Cone fountains.
2. Cylindrical fountains.
3. Flitter sparklers.
4. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
5. Ground spinners.
6. Illuminating torches.
7. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.
8. Wheels.
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

661—265.21(100) License fee schedule. The following license fees shall be paid before issuance of a license for the retail sale of consumer fireworks.

265.21(1) *Permanent building—retailer—first-class consumer fireworks.* The annual fee is \$1,000 for a retailer at a permanent building who devotes 50 percent or more of the retailer’s retail floor space to the sale or display of first-class consumer fireworks.

265.21(2) *Temporary structure—retailer—first-class consumer fireworks.* The annual fee is \$500 for a retailer at a temporary structure who devotes 50 percent or more of the retailer’s retail floor space to the sale or display of first-class consumer fireworks.

265.21(3) *Retailer—first-class consumer fireworks—less than 50 percent of retail space.* The annual fee is \$400 for a retailer who devotes less than 50 percent of the retailer’s retail floor space to the sale or display of first-class consumer fireworks.

265.21(4) *Community group—first-class consumer fireworks.* The annual fee is \$400 for a community group that offers for sale, exposes for sale, or sells first-class consumer fireworks.

265.21(5) *Retail sale of both first-class consumer fireworks and second-class consumer fireworks.* A license issued for the retail sale of first-class consumer fireworks allows the retailer or community group to sell or offer for sale both first-class consumer fireworks and second-class consumer fireworks at the same location. The license fee shall be based on the percentage of the retail space devoted to the sale of first-class fireworks.

265.21(6) *Retailer or community group—license for second-class fireworks only.* The annual fee is \$100 for a community group that offers for sale, exposes for sale, or sells second-class consumer fireworks but not first-class consumer fireworks. A license issued for the sale of second-class consumer fireworks does not allow the community group to sell or offer or expose for sale any first-class consumer fireworks.

661—265.22(100) Fees collected.

265.22(1) *Administrative license fee.* A nonrefundable administrative fee of \$100 is required with every application for a consumer fireworks retail sales license. The \$100 fee will be applied to the license fee if the license is issued.

265.22(2) *Changing license class or amount.* If a retailer or consumer group is issued a license for the retail sale of one class or amount of consumer fireworks, and changes to a class or amount that requires a higher license fee, the retailer or consumer group shall pay only the difference in the two fees. The license for the lower class will be invalid after the issuance of the new license.

265.22(3) *No refund after issuance.* Payment is final when the license is issued, and the fee will not be refunded.

661—265.23(100) Consumer fireworks retail sales license.

265.23(1) *Application period.* The state fire marshal will begin accepting applications for consumer fireworks retail sales licenses beginning March 1 of each year. The license applications for permanent sites will be processed before the applications for temporary sites. Complete applications will be processed in the order they are submitted.

265.23(2) *Application form and instructions.* The application for a license for retail sales of first-class consumer fireworks or second-class consumer fireworks, or both first-class consumer fireworks and second-class consumer fireworks, shall be made to the state fire marshal. The application form and instructions may be found on the state fire marshal website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml.

265.23(3) *Application requirements.* Applications and the accompanying plans must include all required information and must be prepared in accordance with the application instructions. An application will not be processed until all required information is received in the form required by the instructions. If any required information is illegible or incomplete, that application will not be processed and a new application with all of the required information must be submitted. The state fire marshal's office may, in its discretion, allow an applicant to provide missing information without submitting a new application.

661—265.24(100) Submittal of application and required information.

265.24(1) The following must be submitted to the state fire marshal's office:

- a. The completed application, signed by the owner, officer, director, or another person authorized to sign documents on behalf of the retailer or community group.
- b. Document(s) that establish that the applicant is either a community group or retailer.
- c. The plan(s) for each retail sales location, including any permanent or temporary building or structure.
- d. The plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the storage of consumer fireworks.
- e. All plans and drawings must be legible and include all required information and measurements.
- f. Proof that the applicant has obtained commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.
- g. The applicable license fee.

265.24(2) *Updating contact information.* If any of the contact information for the retailer or community group changes during the period that the license is valid, that information shall be updated and submitted to the state fire marshal's office within five working days of when the information changed.

661—265.25(100) Fireworks site plan review and approval.

265.25(1) *Plan approval.*

- a. A license is required for each location where the retail sales of consumer fireworks are conducted. The plan(s) for each retail sales location, including any permanent or temporary building or structure, and for each building or structure used for the storage of fireworks must be submitted.
- b. Every location where the retail sales of consumer fireworks take place or where consumer fireworks are stored, including any permanent or temporary building(s) or structure(s), must do so in accordance with NFPA 1124.
- c. The retailer or community group shall also submit to the state fire marshal's office the proposed plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the storage of fireworks.

d. The plan(s) will be reviewed to determine whether it is in accordance with NFPA 1124. If the plan(s) is incomplete or noncompliant, the retailer or community group will receive notification of deficiencies that need to be corrected.

NOTE: Regarding the incorporation of the reference to NFPA 102, 1995 edition, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures into NFPA 1124 concerning tents and membrane structures, Sections 7.3.5 and 7.4.8.1.2 of NFPA 1124 should be read together with Section A.7.4.8.1.2 in the Explanatory Material in Annex A to NFPA 1124 and used for the purposes of (1) determining the requirements for the means of egress in tents and membrane structures except as modified by Section 7.3.14 of NFPA 1124 for special requirements for the retail sales of consumer fireworks, and (2) to prohibit the use, discharge, or ignition of fireworks within the tent or membrane structure. The other provisions of NFPA 1124, including the sections relating to the retail sales of consumer fireworks in tents or membrane structures, remain applicable.

265.25(2) Plans not required. In the discretion of the state fire marshal, plans may not be required in the following circumstances:

a. For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.

b. For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, a new or updated plan shall be submitted.

c. For permanent buildings which are currently classified as a retail occupancy and in which second-class consumer fireworks are the only fireworks are offered for sale.

661—265.26(100) Plan review and inspection—guidelines.

265.26(1) Inspections.

a. Any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, shall do so in accordance with NFPA 1124. Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection. In the discretion of the state fire marshal, prelicense inspections may not be required in the following circumstances:

(1) For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.

(2) For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, then a new or updated plan shall be submitted.

b. State licensing inspections shall only be conducted by persons approved by the state fire marshal. The inspection form shall be approved by the state fire marshal and will be available only to approved inspectors.

c. Each location, including the building(s) or structure(s) where the retail sales of consumer fireworks will be conducted or are conducted or where consumer fireworks are stored, must pass the state licensing inspection when conducted. Each location, including the building(s) or structure(s) must pass all elements of the inspection as conducted.

661—265.27(100) Issuance and display of license. The submitted application, any additional documents and information, and the completed inspection form shall be reviewed by the state fire marshal's office.

265.27(1) If all of the requirements are met and the correct license fee is paid, the state fire marshal shall issue the license. The license will be sent by email or can be downloaded from the state fire marshal's website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml. The license shall be effective for the applicable date(s) for the sales of consumer fireworks.

265.27(2) The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.

661—265.28(100) Unauthorized use of license. Only the retailer or the community group which is issued the license may use that license for the retail sales of consumer fireworks. Each license will be issued for a specific location. The license may not be transferred to or used at any other location.

265.28(1) If the retailer or community group to which the license is issued changes the location where the retail sale of consumer fireworks will be sold, the retailer or community group shall submit a new application and all required information for the new site and pay the applicable license fee. The application must be reviewed and approved in order for a new license to be issued.

265.28(2) The licensed retailer or community group or the authorized representative of the licensed retailer or community group must be personally present at all times when consumer fireworks are being sold.

265.28(3) No unlicensed retailer, community group, person, group of people, business, or other for-profit or nonprofit entity may use the license issued to another retailer or community group for the retail sales of consumer fireworks, unless the licensed retailer or community group or the authorized representative of the licensed retailer or community group is personally present at all times when consumer fireworks are being sold.

661—265.29 Reserved.

DIVISION IV
CONSUMER FIREWORKS WHOLESALER REGISTRATION

661—265.30(100) Definitions. The following definitions apply to Division IV.

“Consumer fireworks” means first-class consumer fireworks and second-class consumer fireworks, as those terms are defined in Iowa Code section 100.19.

“NFPA 1124” means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

“Wholesaler” means a person who engages in the business of selling or distributing consumer fireworks for the purpose of resale in this state.

661—265.31(100) Annual registration. Each wholesaler shall register with the state fire marshal annually.

265.31(1) Registration process. Each wholesaler shall complete the annual registration form and submit the form to the state fire marshal’s office. The registration form and instructions may be found on the state fire marshal website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml.

265.31(2) Registration fee. Each wholesaler shall pay an annual registration fee of \$1,000 to the state fire marshal.

661—265.32(100) Safety regulations—storage and transfer. Each wholesaler shall comply with all of the requirements of NFPA 1124 for the storage and transfer of consumer fireworks.

661—265.33(100) Insurance—required. While operating as a wholesaler, each wholesaler shall maintain commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.

661—265.34 to 265.39 Reserved.

DIVISION V
VIOLATIONS—LICENSE REVOCATION

661—265.40(100) Revocation of license. The consumer fireworks retail sales license granted to a retailer or community group shall be revoked upon a finding by the state fire marshal that the licensee intentionally violated any of the rules in Division III of this chapter.

265.40(1) Notice of violation. The state fire marshal, any paid or volunteer member of a fire department, or any law enforcement officer may investigate a complaint of a violation of the rules in Division III of this chapter. After a review of the investigation, the state fire marshal may issue a Notice of Violation and Order to Show Cause to the licensee. The Notice shall contain the date, time and place for the hearing before the division of the state fire marshal.

265.40(2) Hearing. A hearing on the violation shall be held before the division of the state fire marshal.

265.40(3) Findings. If, after a hearing on the Order to Show Cause, the division of the state fire marshal finds that the licensee intentionally violated any of the rules in Division III, the state fire marshal shall revoke the license or licenses of the retailer or community group for the retail sale of consumer fireworks.

661—265.41(100) Petition for judicial review. The licensee may file a petition for judicial review of the decision of the division of the state fire marshal in accordance with the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A.

661—265.42(100) License revocation effective date. The revocation of the license or licenses for the retail sale of consumer fireworks commences on the thirty-first day after the date of the order of the division of the state fire marshal, if a petition for judicial review has not been filed in the district court. If the licensee has filed a petition for judicial review, the revocation of the license or licenses for the retail sale of consumer fireworks commences on the thirty-first day following the entry of the order of the district court, if the order affirms the order of the division of the state fire marshal.

661—265.43(100) Revocation—denial of new license. A new license shall not be issued to a person whose license has been revoked or to the business in control of the premises on which the violation occurred for a period of one year if there is a finding that the owner of the business had actual knowledge of the violation resulting in the license revocation.

661—265.44 to 265.49 Reserved.

DIVISION VI
FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES GRANT PROGRAM

661—265.50(100) Consumer fireworks fee fund. All fees received from the licenses issued for the retail sale of consumer fireworks and the annual registration fees received from wholesalers of consumer fireworks shall be deposited into the consumer fireworks fee fund pursuant to Iowa Code section 100.19. The state fire marshal shall use the fees deposited into this fund to fulfill the responsibilities of the state fire marshal for the administration and enforcement of Iowa Code sections 100.19 and 100.19A.

661—265.51(100) Local fire protection and emergency medical service providers grant program. The local fire protection and emergency medical service providers grant program is established by the state fire marshal. The grant program shall be funded with only those moneys from the consumer fireworks fee fund which are not needed by the state fire marshal to fulfill the responsibilities of the state fire marshal for the administration and enforcement of Iowa Code sections 100.19 and 100.19A.

265.51(1) Definitions. The following definitions apply to Division VI.

“Emergency medical services” means the same as defined in Iowa Code section 147A.1(5).

“Fire protection service” means volunteer or paid fire departments.

265.51(2) Authorized applicants. Any local fire protection service provider or local emergency medical service provider in the state of Iowa may apply for grant funds from the local fire protection and emergency medical service providers grant program.

265.51(3) Authorized purposes of grant funds. The grant funds in the local fire protection and emergency medical service providers grant program may only be used for the following:

- a. To establish or provide fireworks safety education programming to members of the public.
- b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.

265.51(4) Application. The application for grant funds shall be made to the state fire marshal. The application form may be found at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml. Applications must be received on or before June 30 of each year. The application shall include all of the following:

- a. The application shall be signed by a person who is an official, owner, or another person who has authorization to sign on behalf of the fire protection service or the emergency medical service provider entity.

- b. The specifics of the proposed use of the grant funds.

- (1) If the application is for equipment, the applicant should include a detailed description of the equipment, the company or entity from which the purchase will be made, the cost, and a justification as to how this equipment purchase fits the purposes of the grant program.

- (2) If the application is for safety education programming, the application shall include a detailed description of the programming, the specific people who will be providing the programming, and a description of the materials to be purchased and used.

- c. The amount of grant funds requested.

265.51(5) Approval of application. The state fire marshal shall review the application and determine whether to make the award of grant funds. The state fire marshal has the sole discretion in determining whether or not to award funds from the grant program to the applicant and the amount of funds awarded to each applicant. Factors to be considered in making an award of grant funds include, but are not limited to:

- a. The amount of grant funds available.

- b. The number of applicants for grant funds.

- c. The proposed use of the grant funds and whether the use is consistent with the approved program purposes.

- d. Whether the applicant has previously been approved for grant funds from this program.

- e. The applicant's use of any previous grant funds received from the program.

265.51(6) Report required. All grant recipients shall file a report with the state fire marshal that lists the amount of grant funds received and the purpose(s) for which the grant funds were spent. The state fire marshal may conduct an inspection or audit to determine compliance with the rules and purposes of the grant program, in addition to any other authorized audits.

These rules are intended to implement Iowa Code sections 100.19 and 100.19A.

[Filed 12/27/17, effective 2/21/18]

[Published 1/17/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.